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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,424	08/03/2000	Paul L. Hickman	NEO1P025 A	6696

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EXAMINER

PATEL, AJIT

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/631,424

Applicant(s)

HICKMAN, PAUL L.

Examiner

AJIT G. PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant is requested to provide the status of the related co-pending application recited on page 1 of the specification.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CAR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CAR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CAR 3.73(b).

3. Claims 1, 3-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 08/847,921. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one skilled in the art to delete the feature that the applicant does not consider critical to their invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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4. Claims 1, 3-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/633,497. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one skilled in the art to delete the feature that the applicant does not consider critical to their invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

6. Claims 1, 3-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Rhie et al (US PAT. NO. 5,953,392).

Rhie et al disclose method and apparatus for telephonically accessing and navigating the Internet comprising a plurality of touch-tone telephones capable of producing DTMF signals (lines 13-24, col. 2); an access system (14,15 of fig. 1) coupled to a TCP/IP network (20 of fig. 1), the TCP/IP network comprising a plurality of nodes, the TCP/IP network providing access to web pages

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stored on computer systems (lines 8-14, col. 3) coupled to the TCP/IP network, the web pages comprising HTML code that can be transmitted via TCP/IP packets to the access system over the TCP/IP network, the access system being able to receive the TCP/IP packets and to parse HTML code into text and non-text portions (col. 3, line 66 through line 15, col. 4); a telephone system (14 fig. 1) coupling the telephone to the access system for interactive communication with the access system (18 of fig. 1); a text-to-speech system (lines 5-15, col. 4) associated with the access system for reading at least some of the text to a user of the telephone; wherein the telephone is a touch-tone telephone (lines 22-24, col. 3), and wherein the access system can be provided with commands in the form of DTMF signals (lines 13-24, col. 2); a speech recognition system responsive to spoken commands from the telephone user and operative to provide operational commands to the access system (lines 8-60, col. 3); wherein the access system is responsive to commands from the telephone user for navigating both within a web page and between web pages of the TCP/IP network (lines 14-20, col. 3) and a security system requiring at least a password to grant the user permission (lines 29-30, col. 3).

7. Applicant's arguments with respect to claims 1, 3-20 have been considered but are moot in view of the new ground(s) of rejection.

8. **Any response to this action should be mailed to:**

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Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 305-3988, (for formal communications intended for entry)

Or:

(703) 305-3988 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJIT PATEL whose telephone number is (703) 308-5347. The examiner can normally be reached on Monday-Thursday from 6:30 to 5:00.

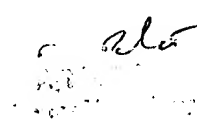
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WELLINGTON CHIN can be reached on (703) 305-4366. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377 .

AJIT PATEL

November 16, 2002

A handwritten signature in dark ink, appearing to read "Ajit Patel", is located in the lower right quadrant of the page. The signature is written in a cursive, flowing style.